GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Registration & Stamps – Allegations of registration of documents without scrutiny – Disciplinary action against Sri M.Suvarna Raju, former Sub Registrar, Pithapuram, Kakinada Registration District (now Retd) under Rule 20 of APCS (CC&A) Rules, 1991 – Initiated – Written Statement of Defence – Considered - Further action dropped – Orders – Issued.

REVENUE (VIGILANCE-II) DEPARTMENT

G.O.Rt.No.811 Dated 30-07-2019

Read the following:-

1. From the DIG, R&S, Kakinada Lr.No.X/541/2014, dated 02-09-2014.
2. G.O.Ms.No.329, Revenue (Vigilance-II) Department, dated 26-9-2014.
3. G.O.Rt.No.849, Revenue (Vigilance-II) Department, dated 26-9-2014.
4. Written Statement of Deference dated 01-11-2014 of Sri M.Suvarna Raju, former Jt.SR-1, RO (OB), Kakinada (Retd), received vide Lr.No. X/541/2014, dated 03-02-2015 of the DIG, R&S, Kakinada.
5. Government Memo No.26888/Vig.II(1)/2014-1, dated 06-04-2015.
6. From D&IG,R&S,AP,Vijayawada Lr.No.X2/10576/2014, dt.10-1- 2018.

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O R D E R :

Whereas in the reference 1st read above, the Deputy Inspector General, Registration & Stamps, Kakinada has submitted report stating that Sri M.Suvarna Raju, while working as Sub Registrar, Pithapuram, Kakinada Registration District, has registered documents without proper scrutiny and caused huge loss of Rs.14,97,139/- and that above officer had retired from service on 30-06-2011 on superannuation and in the No due certificate issued in his favour, the deficit amount has been indicated and requested the Government to initiate disciplinary action against him as the Government is the competent authority to take action on the retired employees under Andhra Pradesh Revised Pension Rules, 1980.

2. And whereas the Government, after examining the same, have accorded sanction to initiate departmental action against Sri M.Suvarna Raju, former Sub Registrar, Pithapuram, Kakinada Registration District (now retired) and framed the following charge against him with a direction to submit his Written Statement of Defence within the stipulated time, vide references 2nd and 3rd read above:

> CHARGE : The CO while working as Sub-Registrar, Pithapuram of Kakinada Registration District and retired on superannuation on 30.06.2011 has committed grave irregularities by registering the documents without proper scrutiny resulting in huge loss of revenue of Rs.14,97,139/- (Rupees Fourteen lakhs ninety seven thousands one hundred and thirty nine only) to the Government Exchequer and which is unbecoming of a Government Servant.

3. Sri M.Suvarna Raju, former Sub Registrar, Pithapuram, Kakinada Registration District (now retired) has submitted his Written Statement of Defenece, vide reference 3rd read above, contending that the document No.5226/2010 of Sub Registrar, East Godavari District is a Sale Certificate issued by Authorized Officer and it is purchased through the public auction conducted by the Authorized Officer of Indian Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 passed by Government of India and chargeable with Stamp Duty of

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Rs.3,05,000/- and Registration Fee levied is Rs.30,500/-, total Rs.3,35,500/- is to be levied under Article 16 (c) of Schedule – IA of Indian Stamps Act, 1899. He further stated that he has correctly admitted and registered the above document as per the Article 7 (a) of Schedule – IA of the Indian Stamps Act, 1899 and as per the instructions issued by the Commissioner & Inspector General, Registration & Stamps, Vijayawada from time to time and that no revenue loss is caused to the Government exchequer.

4. And whereas after examining the Written Statement of defence of the Charged Officer observed that the contentions raised by the Charged Officer involves interpretation of the provisions of the Stamps Act and relevant registration rules issued from time to time with regard to the documents in question registered by the Charged Officer, hence the Government have requested the Director & Inspector General, Registration & Stamps, to offer his specific remarks on the contentions raised by the Charged Officer in the Written Statement of Defence, vide reference 5th read above.

5. Whereas the Director & Inspector General, Registration & Stamps, vide reference 6th read above, has furnished his specific remarks stating that under Part-I of Local Audit Report No.SRA/R-III/3-256/2010-2011/163, dated 29-08-2011 of Sub Registrar Office, Pithapuram, the Accountant General (C&RA) has pointed out the loss of revenue as Rs.11,22,229/- in respect of document No.5226 of 2010, dated 20-10-2010 observing that the above document was wrongly classified as Certificate of Sale and Charged stamp duty @ 5% on consideration under Article 16 (c) of Schedule I-A instead of as Sale chargeable at 5% under Article 47-A of Schedule I-A besides transfer duty at 3% on market value of the property being higher than consideration as Article 16. The Accountant General has remarked that this condition is applicable to certificate of Sale of Property sold in public auction by Civil or Revenue Court of Collector or other Revenue Officer but not to Certificate of Sale of Property sold in the Public auction by the Banks under SARFESI Act, 2002. Further stated that as per instructions issued by the Commissioner & Inspector General in Circular Memo No.MV1/9871/2009- 1, dated 15-09-2009, it was confirmed that the bid amount in public auction has to be taken as market value of property for assessment of Stamp duty as per the decision of the Hon'ble High Court of Andhra Pradesh and those instructions were in vogue till the Government clarified in Memo No.3358/Regn.1/A2/2012, Revenue (Regn.1) Department dated 22-06-2012 that the sale of secured asset by secured creditor can be regarded as a sale of property by a owner of property chargeable under Article 47-A of Schedule I-A but not under Article 16 of said schedule. The Charged Officer had registered the above document prior to the clarification issued by Government and that the document has been registered duly following the instructions which are in vogue at the time of registration.

6. Whereas the Director & Inspector General, Registration & Stamps in his report with regard to the objections raised in Part-II of Local Audit Report No.SRA/R-III/3-256/2010-2011/163, dated 29-08-2011 relating to 20 documents wrongly classified as Agreements relating to deposit of title deeds instead of Simple Mortgages chargeable under Article 35 (b) of the Schedule – IA of the Indian Stamps Act and estimated the loss caused as Rs.3,71,470/- has stated that, though Banks / Financial Institutions are having power under SARFESI Act, 2002 to sell the secured properties on default of payment of the mortgage debts by the borrowers, such clauses are not being included / mentioned in documents by the parties to documents in order to evade payment of stamp duty as Simple Mortgage under Art.35 (b) of Schedule I-A since such clauses attract duty as simple Mortgages. Further stated that an instrument has to be charged to stamp duty as per the recitals contained

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therein and that an instrument is chargeable but not the transaction. The Sub Registrar cannot insist the parties to include a particular clause in the document to charge it with higher rate of stamp duty. In the instant case, no charge over specified property was created in favour of the lender to make them chargeable under Article 35(b) of Schedule I-A as simple Mortgage and the procedure in registering the deeds as Agreements relating to deposit of title deeds chargeable under Article 7 (a) of Schedule I-A may not be objected to.

7. And whereas with regard to item No.I of the Annual Inspection Report of Sub Registrar's Office, Pithapuram for 2009-2010 in respect of document No.52 of 2010 of Book-1, the Director & Inspector General, Registration & Stamps, has stated that it is evident that an Instrument by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded are only chargeable with stamp duty under the Indian Stamp Act, 1899 and further stated that in the instant case there are no changes in the names of the Parties, extent and boundaries of the property and the name of the Village, wherein the property is situated and also it neither creates any fresh right nor transfers, limits, extents, extinguishes or records any such rights, hence, the document cannot be treated as a fresh one as per Section 2 (14) of the Indian Stamp Act, 1899 as Rectification of Survey number alone does not make it a fresh one requiring stamp duty and finally stated that the contentions raised by the Charged Officer are liable to be accepted.

8. The Government, after examining the matter keeping in view the specific remarks furnished by the Director & Inspector General, Registration & Stamps, observes that the contentions raised by the Charged Officer, in his Written Statement of Defence, are convincing and decided to drop further action against the Charged Officer as he had retired from service on 30.06.2011. Accordingly, the Government hereby order to drop further action against Sri M.Suvarna Raju, former Sub Registrar, Pithapuram, Kakinada Registration District (now Retired) in the matter.

9. The Commissioner & Inspector General, Registration & Stamps, shall take necessary action accordingly.

Dr.D.SAMBASIVA RAO
SPECIAL CHIEF SECRETARY TO GOVERNMENT (CT, EXCISE & R&S)

To

Sri M.Suvarna Raju, former Sub Registrar, Pithapuram, Kakinada Registration District (now retired). (**through** the Commissioner & Inspector General, Registration & Stamps, AP, Vijayawada with a request to serve the Order to the individual and furnish served copy with dated acknowledgement for record).

Copy to :

The Commissioner & Inspector General, Registration & Stamps, Andhra Pradesh, Eedupugallu, Vijayawada.

The Deputy Inspector General, Registration & Stamps, Kakinada, East Godavari District.

Sf/Sc.

//FORWARDED:: BY ORDER//

SECTION OFFICER